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May 8, 2012

National Remedy Review Board
U.S. Environmental Protection Agency
c/o Allison Hiltner, Region 10
1200 Sixth Avenue, Mailcode ECL-111
Seattle, WA 98101

Re: Comments on Lower Duwamish Waterway Group's Draft Final Feasibility Study
and "Key Elements for Optimizing the Cleanup of the LDW"

Dear Board Members:

Kelly-Ryan, Inc. ("Kelly-Ryan") submits these comments on the Draft Final Feasibility Study ("FS") for the Lower Duwamish Waterway ("LDW") prepared by the Lower Duwamish Waterway Group ("LDWG") and dated October 15, 2010. This letter expresses Kelly-Ryan's opinions over the sediment cleanup alternatives presented in the FS and, in particular, the "key elements" approach as presented by LDWG. The "key elements" were identified in a technical memorandum submitted to the U.S. Environmental Protection Agency ("EPA") and the Washington Department of Ecology ("Ecology") in August 2011.

Kelly-Ryan has been a member of the Lower Duwamish business community since 1979. We recognize that the approach taken by EPA on how to implement the FS will have a significant impact on businesses, particularly water-dependent businesses or companies whose businesses depend on marine transportation and commerce. Kelly-Ryan is a small, family-owned construction company. The company's activities include bidding construction projects, purchasing materials and equipment in Washington, and then loading these items on barges in the Duwamish waterway for remote Alaska construction sites.

We currently employ sixteen people with living wage positions. The jobs involved in Kelly-Ryan's operations include office staff, longshore workers and construction workers. Many of Kelly-Ryan's employees have been with the company for several years.

If Kelly-Ryan is to remain viable in the future, the alternatives outlined in the FS and how EPA decides to implement the cleanup process must take into consideration the operations

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of businesses like us. The selection of a cleanup option will also have a significant impact on the local economy and, in particular, on businesses like Kelly-Ryan.

Kelly-Ryan is committed to promoting a healthy environment and economy in the Puget Sound area. It shares EPA's desire to ensure the long-term health of the waterway. However, because the costs and impact of the cleanup will likely be borne by many of the area local businesses and taxpayers, the cleanup must be practical and effective, from both a technical and cost perspective. We believe that the range of cleanup methods being considered in the FS are the right options. However, the alternative selection process must allow for further evaluation of sub-areas and allow for navigation dredging projects in the short-term to proceed in a timely fashion without delay.

We recognize the challenges that EPA and Ecology have in managing a complex cleanup of the LDW Site that is both protective of human health and the environment and that considers the needs of all stakeholders, including the local community and businesses that provide important jobs and tax revenue. We have a strong understanding of the role that existing and future businesses have on the local and regional economy, and we support the need for cleanup of the LDW Site. Kelly-Ryan's future vision of the LDW is one that both supports local waterfront businesses and the jobs they provide, as well as offering a safe resource for the community and environment within the context of a continued working waterfront. We also believe that the estimated cleanup costs and durations, together with the associated impacts on waterfront businesses, are potentially so significant that there needs to be a careful balance between a practical cleanup process and reasonable cleanup objectives.

To date, opportunities to provide input directly to the regulatory agencies from businesses (stakeholders) during the development of the FS have been limited. This process has not adequately incorporated the perspectives of waterfront property owners and lessees. Thus, it may not reflect a balanced view of the entire community. The views of the Duwamish River Cleanup Coalition ("DRCC") seem to dominate EPA meetings and briefings. Significant discussions need to occur with other businesses identified as additional potentially responsible parties ("PRPs"), as well as businesses not identified as PRPs, to gain their input. The concerns raised by PRPs who may be responsible for funding a portion of the cleanup should be considered and addressed.

It is imperative that the final remedy selected for the LDW Site balance implementability, short- and long-term effectiveness, the potential for recontamination, cost effectiveness, and long-term adaptive management. The FS presents a detailed comparative analysis of the cleanup alternatives, which clearly shows that the alternatives with the highest removal volumes (e.g., 5R-T, 6C and 6R) ranked the lowest, took significantly longer time to achieve cleanup objectives, and cost significantly more to complete. Kelly-Ryan fully supports the Key Elements Plan prepared by the LDWG. This option essentially creates a "best of" cleanup approach. Key features include:

- Prioritizing sediment cleanup by first focusing on those contaminants that represent unacceptable human health risks, thereby reducing risks to human health as quickly as possible;
- Prioritizing dredging or capping in hot spot areas, and ensuring the use of the most appropriate cleanup technologies in other areas of the waterway to increase cleanup certainty;
- Applying advanced treatment technology (by adding activated carbon to the sediments) in defined lower-contamination areas to reduce the potential for contaminant release and decrease bioavailability, and thereby improve effectiveness;
- Committing to a broad monitoring and community outreach/education program to further reduce risks to people and to allow timely remedy adjustments, if monitoring shows they are needed; and
- Supporting control of upland sources of contaminants to the waterway to reduce future re-contamination, accomplished through a well-integrated state and local source control program.

Kelly-Ryan supports the "Key Elements" approach, which combines elements of the alternatives analyzed in the 2010 FS. This approach includes targeted dredging, on-site carbon treatment, natural recovery, and a strong commitment to both monitoring and additional actions when necessary, to meet EPA's cleanup objectives. Much more, the Key Elements approach is more cost effective and less disruptive to the business community, while achieving the same goals set forth in EPA and Ecology's preferred 5C+ option. The 5C+ option contains uncertainties in costs and construction timeframes that will significantly impact the business community.

Because all of the alternatives reach the same risk reduction outcomes, Kelly-Ryan recommends the selected cleanup be the one with the shortest elevated risk period. The Key Elements approach has a very short construction window (five years), and it also achieves all of the risk reduction targets in the shortest time period (15 years). The shorter construction window:

- Reduces the period of highest seafood exposure;
- Reduces construction related impacts and releases to the environment;
- Minimizes community health impacts; and
- Minimizes disruption to commerce.

The LDWG's Key Elements approach offers the greatest reduction in these negative effects, while increasing the certainty that the cleanup will meet its objectives. This approach relies on the right balance of dredging and implements other technologies to control areas with lesser contamination. Accordingly, the Key Elements approach should be adopted by EPA as the preferred cleanup option.

Submittal of these comments is not intended and should not be construed as an admission of responsibility or liability for any aspect of the LDW site. Kelly-Ryan may provide additional comments on the remedy selection process as more information becomes available.

We appreciate the opportunity to comment and look forward to receiving additional information about the remedy selection process for the LDW. Kelly-Ryan's preference is that any future written communications (in response to this comment letter or on other subjects) be directed to its counsel, Kim Maree Johannessen at Johannessen & Associates, P.S.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ryan W. Pleas", is written over a horizontal line.

Ryan Pleas
Vice President

cc: U.S. Senator Patty Murray
U.S. Senator Maria Cantwell
Dennis McClarren, Regional Administrator, EPA Region 10
Lori Cohen, EPA Region 10
Ted Sturdevant, Director, Ecology
Jim Pendowski, Program Manager, Toxics Cleanup Program, Ecology
Bob Warren, Regional Program Manager, Toxics Cleanup Program, Ecology
Dow Constantine, King County Executive
Mike McGinn, City of Seattle Mayor
Marilyn Young Skoglund, Manufacturing Industrial Council
Kevin Burrell, ECOSS
Kim Maree Johannessen, Johannessen & Associates, P.S.